

Appl. No. 09/870,029
Amdt. dated June 7, 2005
Reply to final Office action of April 7, 2005

REMARKS/ARGUMENTS

Applicants have received the final Office action dated April 7, 2005, in which the Examiner: 1) rejected claims 1-9 under 35 U.S.C. § 112, 1st paragraph, for "failing to comply with the written description requirement"; 2) rejected claims 1-9 under 35 U.S.C. § 112, 2nd paragraph, for "being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention"; 3) rejects claims 1, 6, 10-13, and 15-19 under 35 U.S.C. § 102(e) as being anticipated by Jacobs et al. (U.S. Pat. No. 6,236,999); 4) rejected claims 1, 2, 5, 7, 9, and 14 under 35 U.S.C. § 103(a) as being unpatentable over Scott et al. (U.S. Pat. No. 6,560,717) in view of Jacobs et al.; 5) rejected claims 3 and 8 under 35 U.S.C. § 103(a) as being unpatentable over Jacobs et al., in view of Chou et al. (U.S. Pat. No. 6,247,056); 6) rejected claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Jacobs et al. and Chou et al. in view of Carlson (U.S. Pat. No. 6,697,849); 7) rejected claims 3 and 8 under 35 U.S.C. § 103(a) as being unpatentable over Scott et al. and Jacobs et al. in view of Chou et al.; and 8) rejected claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Scott et al, Jacobs et al. and Chou et al. in view of Carlson.

With this Response, Applicants have amended claims 1, 6-9 and 17. Based on the amendments and arguments contained herein, Applicants respectfully request reconsideration and allowance of the pending claims.

I. CLAIM AMENDMENTS

Each of claims 7-9 contained a typographical error, in that claims 7-9 incorrectly depended on claim 5. Applicants amended claims 7-9 to depend on claim 6.

II. § 112 REJECTIONS

The Examiner rejected claim 1 as failing to comply with the written description requirement (§ 112, first paragraph) and failing to particularly point out and distinctly claim the subject matter (§ 112, second paragraph). While Applicants disagree with the Examiner's arguments, claim 1 was amended to clarify the limitation in dispute. Amended claim 1, in part, requires that "the distributor module is configured to capture client connection requests only for one

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of a plurality of Application server classes." Applicants submit that amended claim 1 is supported by Applicants' specification at least in page 11, lines 17-21, page 12, lines 16-22 and Figure 13. Also, Applicants submit that amended claim 1 meets the requirements of §112, second paragraph.

The Examiner rejected claim 6 as failing to comply with the written description requirement (§ 112, first paragraph) and failing to particularly point out and distinctly claim the subject matter (§ 112, second paragraph). While Applicants disagree with the Examiner's arguments, claim 6 was amended to clarify the limitation in dispute. Amended claim 6, in part, requires a "distributor module being configured to receive client connection requests only for one of a plurality of Application server classes." Applicants submit that amended claim 6 is supported by Applicants' specification at least in page 11, lines 17-21, page 12, lines 16-22 and Figure 13. Also, Applicants submit that amended claim 6 meets the requirements of §112, second paragraph.

III. § 102 AND § 103 REJECTIONS

Amended claim 1, in part, requires "a distributor module that is configured to capture connection requests from a client on a port, to select one of the plurality of Application Servers to communicate with the requesting client during the connection and to assign the connection request to the selected one of the plurality of Application Servers, such that, after the assignment, the selected Application Server communicates directly with the client." Claim 1 also requires that "the distributor module is configured to capture client connection requests only for one of a plurality of Application server classes."

Jacobs teaches load balancing software that selects a service provider from a plurality of service providers (see Figure 5a, col. 5, lines 29-33 and col. 11, line 6-col. 12, line 22). Jacobs further teaches that each computer includes "a Smart stub which is able to find out about all the service providers and switch between them based on the load balancing method" (see Abstract and col. 11, lines 22-24). However, Jacobs does not teach or suggest that the Smart stub or the load balancing software is "configured to capture client connection requests

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only for one of a plurality of Application server classes" as required of the "distributor module" in claim 1.

The Examiner also appears to equate a load manager and load balancer taught in Scott with Applicants' claimed "distributor module." However, Scott simply teaches that "each application server 24 contains a load manager module" (see col. 4, lines 10-12). Scott simply does not teach or suggest a "distributor module [that] is configured to capture client connection requests only for one of a plurality of Application server classes" as required in claim 1. None of the references cited by the Examiner, nor combinations of the references, teaches or suggests this limitation. For at least this reason, Applicants submit that claim 1 and all claims that depend from claim 1 are allowable.

Amended claim 6, in part, requires a "distributor module being configured to receive client connection requests only for one of a plurality of Application server classes." As described previously, Jacobs teaches a Smart stub and load balancing software. Also, Scott teaches a load manager and load balancer. However, neither Jacobs nor Scott teaches or suggests a "distributor module being configured to receive client connection requests only for one of a plurality of Application server classes" as required in claim 6. None of the references cited by the Examiner, nor combinations of the references, teaches or suggests this limitation. For at least this reason, Applicants submit that claim 6 and all claims that depend from claim 6 are allowable.

Claim 10, in part, requires "a plurality of application servers assigned to execute on the processing elements, wherein the plurality of application servers comprise distinct classes of application servers." Claim 10 further requires "a plurality of distributor modules coupled between the application servers and a plurality of clients, wherein each distributor module is configured to handle client connection requests to a distinct class of application servers."

As previously described, Jacobs and Scott teach load balancing between servers. However, neither Jacobs nor Scott teaches or suggests "a plurality of distributor modules coupled between the application servers and a plurality of clients, wherein each distributor module is configured to handle client connection

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requests to a distinct class of application servers" as required in claim 10. None of the references cited by the Examiner, nor combinations of the references, teaches this limitation. For at least this reason, Applicants submit that claim 10 and all claims that depend from claim 10 are allowable.

Amended claim 17, in part, requires "initializing a distributor module, the distributor module being assigned to distribute client connection requests to only one of a plurality of application server types." Claim 17 further requires "distributing each client connection request by the distributor module to one of the assigned type of application servers based on a determination of which application server is currently handling the fewest number of clients."

As previously described, Jacobs and Scott teach load balancing. However, neither Jacobs nor Scott teaches or suggests a "distributor module being assigned to distribute client connection requests to only one of a plurality of application server types." None of the references cited by the Examiner, nor combinations of the references, teaches this limitation. For at least this reason, Applicants submit that claim 17 and all claims that depend from claim 17 are allowable.

IV. CONCLUSIONS

In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the cited art which have yet to be raised, but which may be raised in the future.

Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are

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hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,



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